

## NOTES TO DATA RECORDS

\* "Most Serious Current Offense" is the current offense with the highest offense seriousness level, not to be confused with the statutory definition of a "Most Serious Offense." If this offense is not among those required to be reported under RCW 9.94A.105, it was accompanied by another, reportable, offense in the same case. The sentence shown reflects both the reportable offense and any other offenses sentenced in the same case.

\*\* Sentences expressed in months. Decimal places refer to parts of months rather than days. A sentence to prison for "a year and a day" appears as "12.03" months.

Data record furnished by the Sentencing Guidelines Commission (SGC). The data record presented in this table reflects information provided to the SGC as of the date this record was printed. For further information or to correct inaccurate information, please contact:

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Note 1: First-Time Offender Waiver (FTOW) sentences are considered an "alternative standard range" sentence. As part of the FTOW sentence, the court may order up to three months confinement. The standard range displayed is the range applicable if the offender had not been classified as a First-Time Offender.

Note 2: Special Sex Offender Sentencing Alternative (SSOSA) sentences are considered standard range sentences. In SSOSA sentences, the court orders a sentence within the standard range, and then suspends the sentence contingent on successful adherence to the conditions of the suspended sentence. As part of the SSOSA sentence, the court may order up to six months confinement.

Note 3: Persistent Offenders ("Three Strike" or "Two Strike" offenders) are sentenced to a standard range of life in prison without parole. The standard range displayed is the range applicable if the offender had not been classified as a persistent offender.

Note 4: Aggravated Murder sentences are limited to a standard range of either "life without parole" or "death."

Note 5: "Other" is a residual category for either of two types of sentences: (1) Those in which a technical error has been made (e.g., miscalculation of offender score). Such errors are usually made by court personnel other than the judge. (2) Those where the "standard range" depends on a disputed interpretation of law, where Superior Court judges have interpreted the same statutory language differently, resulting in different sentences. For these sentences, the standard range shown in this record is a data entry convention chosen by SGC staff for statistical purposes only, rather than a statement of the range actually applicable to the case. The range actually applicable depends on the resolution of the legal issue in dispute, either through appeals or by legislation.

## **APPENDIX A: STATUTORY BASIS FOR REPORT**

**RCW 9.94A.105 Judicial records for sentences of certain offenders** (1) A current, newly created or reworked judgment and sentence document for each felony sentencing shall record any and all recommended sentencing agreements or plea agreements and the sentences for any and all felony crimes kept as public records under RCW 9.94A.103 shall contain the clearly printed name and legal signature of the sentencing judge. The judgment and sentence document as defined in this section shall also provide additional space for the sentencing judge's reasons for going either above or below the presumptive sentence range for any and all felony crimes covered as public records under RCW 9.94A.103. Both the sentencing judge and the prosecuting attorney's office shall each retain or receive a completed copy of each sentencing document as defined in this section for their own records.

(2) The sentencing guidelines commission shall be sent a completed copy of the judgment and sentence document upon conviction for each felony sentencing under subsection (1) of this section and shall compile a yearly and cumulative judicial record of each sentencing judge in regards to his or her sentencing practices for any and all felony crimes involving:

- (a) Any violent offense as defined in this chapter;
- (b) Any most serious offense as defined in this chapter;
- (c) Any felony with any deadly weapon special verdict under RCW 9.94A.125;
- (d) Any felony with any deadly weapon enhancements under RCW 9.94A.310 (3) or (4), or both; and/or
- (e) The felony crimes of possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first or second degree, and/or use of a machine gun in a felony.

(3) The sentencing guidelines commission shall compare each individual judge's sentencing practices to the standard or presumptive sentence range for any and all felony crimes listed in subsection (2) of this section for the appropriate offense level as defined in RCW 9.94A.320, offender score as defined in RCW 9.94A.360, and any applicable deadly weapon enhancements as defined in RCW 9.94A.310 (3) or (4), or both. These comparative records shall be retained and made available to the public for review in a current, newly created or reworked official published document by the sentencing guidelines commission.

(4) Any and all felony sentences which are either above or below the standard or presumptive sentence range in subsection (3) of this section shall also mark whether the prosecuting attorney in the case also recommended a similar sentence, if any, which was either above or below the presumptive sentence range and shall also indicate if the sentence was in conjunction with an approved alternative sentencing option including a first-time offender waiver, sex offender sentencing alternative, or other prescribed sentencing option.

(5) If any completed judgment and sentence document as defined in subsection (1) of this section is not sent to the sentencing guidelines commission as required in subsection (2) of this section, the sentencing guidelines commission shall have the authority and shall undertake reasonable and necessary steps to assure that all past, current, and future sentencing documents as defined in subsection (1) of this section are received by the sentencing guidelines commission. [1997 c 338 § 49; 1995 c 129 § 6 (Initiative Measure No. 159).]

**APPENDIX B:  
LIST OF OFFENSES COVERED IN THIS REPORT<sup>1</sup>**

Statute (RCW)	Offense	Class	Seriousness Level
10.95.020	Aggravated Murder 1	A	XV
9A.48.020	Arson 1	A	VIII
9A.48.030	Arson 2	B	IV
9A.36.011	Assault 1	A	XII
9A.36.021	Assault 2	B	IV
9A.36.120	Assault of a Child 1	A	XII
9A.36.130	Assault of a Child 2	B	IX
9A.76.170(2)(a)	Bail Jump with Murder 1 Offense	A	VI
9A.52.020	Burglary 1	A	VII
9A.44.083	Child Molestation 1	A	X
9A.44.086	Child Molestation 2	B	VII
69.50.415	Controlled Substance Homicide	B	IX
9A.36.045	Drive-by Shooting	B	VII
70.74.180	Explosive Devices Prohibited (Possession of Explosive Device for Unlawful Purpose)	A	IX
9A.56.120	Extortion 1	B	V
9A.32.055	Homicide by Abuse	A	XIV
88.12.029(1)(a)	Homicide by Watercraft, by being under the Influence of Intoxicating Liquor or any Drug	A	IX
88.12.029(1)(c)	Homicide by Watercraft, by Disregard for the Safety of Others	A	VII
88.12.029(1)(b)	Homicide by Watercraft, by the Operation of any Vessel in a Reckless Manner	A	VIII
9A.64.020(1)	Incest 1 (Victim under the Age of 14)	B	VI
9A.64.020(2)	Incest 2 (Victim under the Age of 14)	C	V
9A.44.100(1)(a)	Indecent Liberties (with Forcible Compulsion)	B	X

<sup>1</sup> This list is current as of fiscal year 1998, it doesn't reflect the most recently enacted legislation. Changes in the offenses required to be included may have occurred since the sentences in this report were imposed or during the time period covered by the report.

Statute (RCW)	Offense	Class	Seriousness Level
9A.44.100(1)(b), (c)	Indecent Liberties (without Forcible Compulsion)	B	VII
9A.40.020	Kidnapping 1	A	X
9A.40.030	Kidnapping 2	B	V
9A.82.060(1)(a)	Leading Organized Crime	A	X
9.41.190	Machine Gun or Short-barreled Shotgun/Rifle Possession Prohibited	C	Unranked
70.74.280(1)	Malicious Explosion 1	A	XIV
70.74.280(2)	Malicious Explosion 2	A	XIII
81.60.070	Malicious Injury to Railroad Property	A	Unranked
70.74.270(1)	Malicious Placement of Explosives 1	A	XIII
9A.32.060	Manslaughter 1	A	XI
9A.32.070	Manslaughter 2	B	VIII
9A.32.030	Murder 1	A	XIV
9A.32.050	Murder 2	A	XIII
9A.56.310	Possession of a Stolen Firearm	B	V
9.40.120	Possession of Incendiary Device	A	Unranked
9A.88.070	Promoting Prostitution 1	B	VIII
9A.44.040	Rape 1	A	XII
9A.44.050	Rape 2	A	XI
9A.44.060	Rape 3	C	V
9A.44.073	Rape of a Child 1	A	XII
9A.44.076	Rape of a Child 2	A	XI
9A.56.200	Robbery 1	A	IX
9A.56.210	Robbery 2	B	IV
9.68A.040	Sexual Exploitation	B	IX
9A.56.300	Theft of a Firearm	B	VI
9.82.010	Treason	A	Unranked
9.41.040(1)(a)	Unlawful Possession of a Firearm 1	B	VII

Statute (RCW)	Offense	Class	Seriousness Level
9.41.040(1)(b)	Unlawful Possession of a Firearm 2	C	III
9.41.225	Use of Machine Gun in Commission of Felony	A	Unranked
46.61.522	Vehicular Assault	B	IV
46.61.520(1)(a)	Vehicular Homicide by Being Under the Influence of Intoxicating Liquor or any Drug	A	IX
46.61.520(1)(c)	Vehicular Homicide by Disregard for the Safety of Others	A	VII
46.61.520(1)(b)	Vehicular Homicide by the Operation of any Vehicle in a Reckless Manner	A	VIII

Any criminal solicitation or criminal conspiracy to commit a Class A offense

Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a Most Serious Offense

Any felony attempt to commit any Most Serious Offense

Any other Class B felony offense with a finding of sexual motivation

Any other felony with a deadly weapon enhancement under RCW 9.94A.310(3) or (4), or both

Any other felony with a deadly weapon verdict under 9.94A.125

**APPENDIX C:**  
**SELECTIONS FROM SENTENCING REFORM ACT**

**NOTE:** The text of these provisions is the language in effect during 1998. Some of them have changed as a result of 1999 legislation.

**(1) STANDARD SENTENCE RANGES (SENTENCING GRID)**

RCW 9.94A.310(1): See following page.



**(2) SERIOUSNESS LEVELS OF OFFENSES<sup>2</sup>**  
**RCW 9.94A.320 -Crimes included within each seriousness level.**

**CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL**

- XV     Aggravated Murder 1 (RCW 10.95.020)
- XIV    Murder 1 (RCW 9A.32.030)  
         Homicide by abuse (RCW 9A.32.055)  
         Malicious explosion 1 (RCW 70.74.280(1))
- XIII    Murder 2 (RCW 9A.32.050)  
         Malicious explosion 2 (RCW 70.74.280(2))  
         Malicious placement of an explosive 1 (RCW 70.74.270(1))
- XII    Assault 1 (RCW 9A.36.011)  
         Assault of a Child 1 (RCW 9A.36.120)  
         Rape 1 (RCW 9A.44.040)  
         Rape of a Child 1 (RCW 9A.44.073)  
         Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
- XI     Rape 2 (RCW 9A.44.050)  
         Rape of a Child 2 (RCW 9A.44.076)  
         Manslaughter 1 (RCW 9A.32.060)
- X      Kidnapping 1 (RCW 9A.40.020)  
         Child Molestation 1 (RCW 9A.44.083)  
         Malicious explosion 3 (RCW 70.74.280(3))  
         Over 18 and deliver heroin, a narcotic from Schedule I or II, or flunitrazepam from  
              Schedule IV to someone under 18 (RCW 69.50.406)  
         Leading Organized Crime (RCW 9A.82.060(1)(a))  
         Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))  
         Manufacture of methamphetamine (RCW 69.50.401(a)(1)(ii))
- IX     Assault of a Child 2 (RCW 9A.36.130)  
         Robbery 1 (RCW 9A.56.200)  
         Explosive devices prohibited (RCW 70.74.180)  
         Malicious placement of an explosive 2 (RCW 70.74.270(2))  
         Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic, except  
              flunitrazepam, from Schedule I-V to someone under 18 and 3 years junior (RCW  
              69.50.406)  
         Controlled Substance Homicide (RCW 69.50.415)  
         Sexual Exploitation (RCW 9.68A.040)  
         Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))  
         Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW  
              46.61.520)

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<sup>2</sup> These levels were in effect during 1998. Some of them have changed as a result of 1999 legislation.



- Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 88.12.029)
- VIII Arson 1 (RCW 9A.48.020)  
 Promoting Prostitution 1 (RCW 9A.88.070)  
 Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)  
 Manufacture, deliver, or possess with intent to deliver heroin or cocaine (RCW 69.50.401(a)(1)(i))  
 Deliver or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))  
 Manufacture, deliver, or possess with intent to deliver amphetamine (RCW 69.50.401(a)(1)(ii))  
 Possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine (RCW 69.50.440)  
 Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)  
 Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 88.12.029)  
 Manslaughter 2 (RCW 9A.32.070)
- VII Burglary 1 (RCW 9A.52.020)  
 Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)  
 Homicide by Watercraft, by disregard for the safety of others (RCW 88.12.029)  
 Introducing Contraband 1 (RCW 9A.76.140)  
 Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))  
 Child Molestation 2 (RCW 9A.44.086)  
 Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)  
 Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)  
 Involving a minor in drug dealing (RCW 69.50.401(f))  
 Drive-by Shooting (RCW 9A.36.045)  
 Unlawful Possession of a Firearm in the first degree (RCW 9A.41.040(1)(a))  
 Malicious placement of an explosive 3 (RCW 70.74.270(3))
- VI Bribery (RCW 9A.68.010)  
 Rape of a Child 3 (RCW 9A.44.079)  
 Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)  
 Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))  
 Incest 1 (RCW 9A.64.020(1))  
 Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) or flunitrazepam from Schedule IV (RCW 69.50.401(a)(1)(i))  
 Intimidating a Judge (RCW 9A.72.160)  
 Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))  
 Theft of a Firearm (RCW 9A.56.300)

- V
  - Persistent prison misbehavior (RCW 9A.94.070)
  - Criminal Mistreatment 1 (RCW 9A.42.020)
  - Abandonment of dependent person 1 (RCW 9A.42.060)
  - Rape 3 (RCW 9A.44.060)
  - Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
  - Child Molestation 3 (RCW 9A.44.089)
  - Kidnapping 2 (RCW 9A.40.030)
  - Extortion 1 (RCW 9A.56.120)
  - Incest 2 (RCW 9A.64.020(2))
  - Perjury 1 (RCW 9A.72.020)
  - Extortionate Extension of Credit (RCW 9A.82.020)
  - Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
  - Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
  - Rendering Criminal Assistance 1 (RCW 9A.76.070)
  - Bail Jumping with class A Felony (RCW 9A.76.170(2)(b))
  - Sexually Violating Human Remains (RCW 9A.44.105)
  - Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
  - Possession of a Stolen Firearm (RCW 9A.56.310)
- IV
  - Residential Burglary (RCW 9A.52.025)
  - Theft of Livestock 1 (RCW 9A.56.080)
  - Robbery 2 (RCW 9A.56.210)
  - Assault 2 (RCW 9A.36.021)
  - Escape 1 (RCW 9A.76.110)
  - Arson 2 (RCW 9A.48.030)
  - Commercial Bribery (RCW 9A.68.060)
  - Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
  - Malicious Harassment (RCW 9A.36.080)
  - Threats to Bomb (RCW 9A.61.160)
  - Willful Failure to Return from Furlough (RCW 72.66.060)
  - Hit and Run--Injury Accident (RCW 46.52.020(4))
  - Hit and Run with Vessel--Injury Accident (RCW 88.12.155(3))
  - Vehicular Assault (RCW 46.61.522)
  - Assault by Watercraft (RCW 88.12.032)
  - Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana, amphetamine, methamphetamines, or flunitrazepam) (RCW 69.50.401(a)(1) (iii) through (v))
  - Influencing Outcome of Sporting Event (RCW 9A.82.070)
  - Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
  - Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- III
  - Criminal Gang Intimidation (RCW 9A.46.120)
  - Criminal Mistreatment 2 (RCW 9A.42.030)
  - Abandonment of dependent person 2 (RCW 9A.42.070)
  - Extortion 2 (RCW 9A.56.130)
  - Unlawful Imprisonment (RCW 9A.40.040)

- Assault 3 (RCW 9A.36.031)
- Assault of a Child 3 (RCW 9A.36.140)
- Custodial Assault (RCW 9A.36.100)
- Unlawful possession of firearm in the second degree (RCW 9.41.040(1)(b))
- Harassment (RCW 9A.46.020)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- Burglary 2 (RCW 9A.52.030)
- Introducing Contraband 2 (RCW 9A.76.150)
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Patronizing a Juvenile Prostitute (RCW 9.68A.100)
- Escape 2 (RCW 9A.76.120)
- Perjury 2 (RCW 9A.72.030)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(2)(c))
- Intimidating a Public Servant (RCW 9A.76.180)
- Tampering with a Witness (RCW 9A.72.120)
- Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(iii))
- Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))
- Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
- Theft of livestock 2 (RCW 9A.56.080)
- Securities Act violation (RCW 21.20.400)
- II Unlawful Practice of Law (RCW 2.48.180)
- Malicious Mischief 1 (RCW 9A.48.070)
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Class B Felony Theft of Rental, Leased, or Lease-purchased Property (RCW 9A.56.096(4))
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- Health Care False Claims (RCW 48.80.030)
- Possession of controlled substance that is either heroin or narcotics from Schedule I or II or flunitrazepam from Schedule IV (RCW 69.50.401(d))
- Possession of phencyclidine (PCP) (RCW 69.50.401(d))
- Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
- Computer Trespass 1 (RCW 9A.52.110)
- Escape from Community Custody (RCW 72.09.310)
- I Theft 2 (RCW 9A.56.040)
- Class C Felony Theft of Rental, Leased, or Lease-purchased Property (RCW 9A.56.096(4))
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Forgery (RCW 9A.60.020)
- Taking Motor Vehicle Without Permission (RCW 9A.56.070)
- Vehicle Prowl 1 (RCW 9A.52.095)
- Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)

Malicious Mischief 2 (RCW 9A.48.080)  
Reckless Burning 1 (RCW 9A.48.040)  
Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)  
Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))  
False Verification for Welfare (RCW 74.08.055)  
Forged Prescription (RCW 69.41.020)  
Forged Prescription for a Controlled Substance (RCW 69.50.403)  
Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic  
from Schedule I-V (except phencyclidine or flunitrazepam) (RCW 69.50.401(d))

[1998 c 290 § 4; 1998 c 219 § 4; 1998 c 82 § 1; 1998 c 78 § 1. Prior: 1997 c 365 § 4; 1997 c 346 § 3; 1997 c 340 § 1; 1997 c 338 § 51; 1997 c 266 § 15; 1997 c 120 § 5; prior: 1996 c 302 § 6; 1996 c 205 § 3; 1996 c 36 § 2; prior: 1995 c 385 § 2; 1995 c 285 § 28; 1995 c 129 § 3 (Initiative Measure No. 159); prior: (1994 sp.s. c 7 § 510 repealed by 1995 c 129 § 19 (Initiative Measure No. 159)); 1994 c 275 § 20; 1994 c 53 § 2; prior: 1992 c 145 § 4; 1992 c 75 § 3; 1991 c 32 § 3; 1990 c 3 § 702; prior: 1989 2nd ex.s. c 1 § 3; 1989 c 412 § 3; 1989 c 405 § 1; 1989 c 271 § 102; 1989 c 99 § 1; prior: 1988 c 218 § 2; 1988 c 145 § 12; 1988 c 62 § 2; prior: 1987 c 224 § 1; 1987 c 187 § 4; 1986 c 257 § 23; 1984 c 209 § 17; 1983 c 115 § 3.]

**Reviser's note:** This section was amended by 1998 c 78 § 1, 1998 c 82 § 1, 1998 c 219 § 4, and by 1998 c 290 § 4, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

### (3) CRIMINAL HISTORY SCORING RULES

**RCW 9.94A.360 Offender score.** (*Effective until January 1, 1999.*) The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.400.

(2) Class A and sex prior felony convictions shall always be included in the offender score. Class B prior felony convictions other than sex offenses shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction. Class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without committing any crime that subsequently results in a conviction. Serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without committing any crime that subsequently results in a conviction. This subsection applies to both adult and juvenile prior convictions.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

(4) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(5)(a) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(i) Prior offenses which were found, under RCW 9.94A.400(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently or prior juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or as separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.400(1)(a), and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used. The current sentencing court may presume that such other prior

offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate counties or jurisdictions, or in separate complaints, indictments, or informations;

(ii) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(b) As used in this subsection (5), "served concurrently" means that: (i) The latter sentence was imposed with specific reference to the former; (ii) the concurrent relationship of the sentences was judicially imposed; and (iii) the concurrent timing of the sentences was not the result of a probation or parole revocation on the former offense.

(6) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense.

(7) If the present conviction is for a nonviolent offense and not covered by subsection (11) or (12) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and 1/2 point for each juvenile prior nonviolent felony conviction.

(8) If the present conviction is for a violent offense and not covered in subsection (9), (10), (11), or (12) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(9) If the present conviction is for Murder 1 or 2, Assault 1, Assault of a Child 1, Kidnapping 1, Homicide by Abuse, or Rape 1, count three points for prior adult and juvenile convictions for crimes in these categories, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(10) If the present conviction is for Burglary 1, count prior convictions as in subsection (8) of this section; however count two points for each prior adult Burglary 2 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary conviction.

(11) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense or serious traffic offense, count one point for each adult and 1/2 point for each juvenile prior conviction.

(12) If the present conviction is for a drug offense count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (8) of this section if the current drug offense is violent, or as in subsection (7) of this section if the current drug offense is nonviolent.

(13) If the present conviction is for Willful Failure to Return from Furlough, RCW 72.66.060, Willful Failure to Return from Work Release, RCW 72.65.070, or Escape from Community Custody, RCW 72.09.310, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as 1/2 point.

(14) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as 1/2 point.

(15) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (7) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(16) If the present conviction is for a sex offense, count priors as in subsections (7) through (15) of this section; however count three points for each adult and juvenile prior sex offense conviction.

(17) If the present conviction is for an offense committed while the offender was under community placement, add one point. [1997 c 338 § 5. Prior: 1995 c 316 § 1; 1995 c 101 § 1; prior: 1992 c 145 § 10; 1992 c 75 § 4; 1990 c 3 § 706; 1989 c 271 § 103; prior: 1988 c 157 § 3; 1988 c 153 § 12; 1987 c 456 § 4; 1986 c 257 § 25; 1984 c 209 § 19; 1983 c 115 § 7.]

#### (4) CONSECUTIVE OR CONCURRENT SENTENCES

**RCW 9.94A.400 Consecutive or concurrent sentences** (1)(a) Except as provided in (b) or (c) of this subsection, whenever a person is to be sentenced for two or more current offenses, the sentence range for each current offense shall be determined by using all other current and prior convictions as if they were prior convictions for the purpose of the offender score: PROVIDED, That if the court enters a finding that some or all of the current offenses encompass the same criminal conduct then those current offenses shall be counted as one crime. Sentences imposed under this subsection shall be served concurrently. Consecutive sentences may only be imposed under the exceptional sentence provisions of RCW 9.94A.120 and 9.94A.390(2)(g) or any other provision of RCW 9.94A.390. "Same criminal conduct," as used in this subsection, means two or more crimes that require the same criminal intent, are committed at the same time and place, and involve the same victim. This definition applies in cases involving vehicular assault or vehicular homicide even if the victims occupied the same vehicle.

(b) Whenever a person is convicted of two or more serious violent offenses, as defined in RCW 9.94A.030, arising from separate and distinct criminal conduct, the sentence range for the offense with the highest seriousness level under RCW 9.94A.320 shall be determined using the offender's prior convictions and other current convictions that are not serious violent offenses in the offender score and the sentence range for other serious violent offenses shall be determined by using an offender score of zero. The sentence range for any offenses that are not serious violent offenses shall be determined according to (a) of this subsection. All sentences imposed under (b) of this subsection shall be served consecutively to each other and concurrently with sentences imposed under (a) of this subsection.

(c) If an offender is convicted under RCW 9.41.040 for unlawful possession of a firearm in the first or second degree and for the felony crimes of theft of a firearm or possession of a stolen firearm, or both, then the offender shall serve consecutive sentences for each conviction of the felony crimes listed in this subsection, and for each firearm unlawfully possessed.

(2)(a) Except as provided in (b) of this subsection, whenever a person while under sentence of felony commits another felony and is sentenced to another term of confinement, the latter term shall not begin until expiration of all prior terms.

(b) Whenever a second or later felony conviction results in community supervision with conditions not currently in effect, under the prior sentence or sentences of community supervision the court may require that the conditions of community supervision contained in the second or later sentence begin during the immediate term of community supervision and continue throughout the duration of the consecutive term of community supervision.

(3) Subject to subsections (1) and (2) of this section, whenever a person is sentenced for a felony that was committed while the person was not under sentence of a felony, the sentence shall run concurrently with any felony sentence which has been imposed by any court in this or another state or by a federal court subsequent to the commission of the crime being sentenced unless the court pronouncing the current sentence expressly orders that they be served consecutively.

(4) Whenever any person granted probation under RCW 9.95.210 or 9.92.060, or both, has the probationary sentence revoked and a prison sentence imposed, that sentence shall run consecutively to any sentence imposed pursuant to this chapter, unless the court pronouncing the subsequent sentence expressly orders that they be served concurrently.



(5) However, in the case of consecutive sentences, all periods of total confinement shall be served before any partial confinement, community service, community supervision, or any other requirement or conditions of any of the sentences. Except for exceptional sentences as authorized under RCW 9.94A.120(2), if two or more sentences that run consecutively include periods of community supervision, the aggregate of the community supervision period shall not exceed twenty-four months. [1998 c 235 § 2; 1996 c 199 § 3; 1995 c 167 § 2; 1990 c 3 § 704. Prior: 1988 c 157 § 5; 1988 c 143 § 24; 1987 c 456 § 5; 1986 c 257 § 28; 1984 c 209 § 25; 1983 c 115 § 11.]

## **(5) PLEA NEGOTIATIONS AND AGREEMENTS**

**RCW 9.94A.080 Plea agreements--Discussions--Contents of agreements.** The prosecutor and the attorney for the defendant, or the defendant when acting pro se, may engage in discussions with a view toward reaching an agreement that, upon the entering of a plea to a charged offense or to a lesser or related offense, the prosecutor will do any of the following:

- (1) Move for dismissal of other charges or counts;
- (2) Recommend a particular sentence within the sentence range applicable to the offense or offenses to which the offender pled guilty;
- (3) Recommend a particular sentence outside of the sentence range;
- (4) Agree to file a particular charge or count;
- (5) Agree not to file other charges or counts; or
- (6) Make any other promise to the defendant, except that in no instance may the prosecutor agree not to allege prior convictions.

In a case involving a crime against persons as defined in RCW 9.94A.440, the prosecutor shall make reasonable efforts to inform the victim of the violent offense of the nature of and reasons for the plea agreement, including all offenses the prosecutor has agreed not to file, and ascertain any objections or comments the victim has to the plea agreement.

The court shall not participate in any discussions under this section. [1995 c 288 § 1; 1981 c 137 § 8.]

**RCW 9.94A.090 Plea agreements--Information to court--Approval or disapproval--Sentencing judge not bound.** (1) If a plea agreement has been reached by the prosecutor and the defendant pursuant to RCW 9.94A.080, they shall at the time of the defendant's plea state to the court, on the record, the nature of the agreement and the reasons for the agreement. The prosecutor shall inform the court on the record whether the victim or victims of all crimes against persons, as defined in RCW 9.94A.440, covered by the plea agreement have expressed any objections to or comments on the nature of and reasons for the plea agreement. The court, at the time of the plea, shall determine if the agreement is consistent with the interests of justice and with the prosecuting standards. If the court determines it is not consistent with the interests of justice and with the prosecuting standards, the court shall, on the record, inform the defendant and the prosecutor that they are not bound by the agreement and that the defendant may withdraw the defendant's plea of guilty, if one has been made, and enter a plea of not guilty.

(2) The sentencing judge is not bound by any recommendations contained in an allowed plea agreement and the defendant shall be so informed at the time of plea. [1995 c 288 § 2; 1984 c 209 § 4; 1981 c 137 § 9.]

**RCW 9.94A.100 Plea agreements--Criminal history.** The prosecuting attorney and the defendant shall each provide the court with their understanding of what the defendant's criminal history is prior to a plea of guilty pursuant to a plea agreement. All disputed issues as to criminal history shall be decided at the sentencing hearing. [1981 c 137 § 10.]

## **(6) RECOMMENDED PROSECUTING STANDARDS**

**RCW 9.94A.430 Introduction.** These standards are intended solely for the guidance of prosecutors in the state of Washington. They are not intended to, do not and may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law by a party in litigation with the state. [1983 c 115 § 14.]

### **RCW 9.94A.440 Evidentiary sufficiency.** (1) Decision not to prosecute.

**STANDARD:** A prosecuting attorney may decline to prosecute, even though technically sufficient evidence to prosecute exists, in situations where prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

#### **GUIDELINE/COMMENTARY:**

##### **Examples**

The following are examples of reasons not to prosecute which could satisfy the standard.

(a) Contrary to Legislative Intent - It may be proper to decline to charge where the application of criminal sanctions would be clearly contrary to the intent of the legislature in enacting the particular statute.

(b) Antiquated Statute - It may be proper to decline to charge where the statute in question is antiquated in that:

- (i) It has not been enforced for many years; and
- (ii) Most members of society act as if it were no longer in existence; and
- (iii) It serves no deterrent or protective purpose in today's society; and
- (iv) The statute has not been recently reconsidered by the legislature.

This reason is not to be construed as the basis for declining cases because the law in question is unpopular or because it is difficult to enforce.

(c) De Minimus Violation - It may be proper to decline to charge where the violation of law is only technical or insubstantial and where no public interest or deterrent purpose would be served by prosecution.

(d) Confinement on Other Charges - It may be proper to decline to charge because the accused has been sentenced on another charge to a lengthy period of confinement; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iii) Conviction of the new offense would not serve any significant deterrent purpose.

(e) Pending Conviction on Another Charge - It may be proper to decline to charge because the accused is facing a pending prosecution in the same or another county; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) Conviction in the pending prosecution is imminent;

(iii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iv) Conviction of the new offense would not serve any significant deterrent purpose.

(f) High Disproportionate Cost of Prosecution - It may be proper to decline to charge where the cost of locating or transporting, or the burden on, prosecution witnesses is highly disproportionate to the importance of prosecuting the offense in question. This reason should be limited to minor cases and should not be relied upon in serious cases.

(g) Improper Motives of Complainant - It may be proper to decline charges because the motives of the complainant are improper and prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

(h) Immunity - It may be proper to decline to charge where immunity is to be given to an accused in order to prosecute another where the accused's information or testimony will reasonably lead to the conviction of others who are responsible for more serious criminal conduct or who represent a greater danger to the public interest.

(i) Victim Request - It may be proper to decline to charge because the victim requests that no criminal charges be filed and the case involves the following crimes or situations:

- (i) Assault cases where the victim has suffered little or no injury;
- (ii) Crimes against property, not involving violence, where no major loss was suffered;
- (iii) Where doing so would not jeopardize the safety of society.

Care should be taken to insure that the victim's request is freely made and is not the product of threats or pressure by the accused.

The presence of these factors may also justify the decision to dismiss a prosecution which has been commenced.

#### Notification

The prosecutor is encouraged to notify the victim, when practical, and the law enforcement personnel, of the decision not to prosecute.

#### (2) Decision to prosecute.

#### STANDARD:

Crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact-finder. With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and 9A.64.020 the prosecutor should avoid pre-filing agreements or diversions intended to place the accused in a program of treatment or counseling, so that treatment, if determined to be beneficial, can be provided pursuant to RCW 9.94A.120(8).

Crimes against property/other crimes will be filed if the admissible evidence is of such convincing force as to make it probable that a reasonable and objective fact-finder would convict after hearing all the admissible evidence and the most plausible defense that could be raised.

See table below for the crimes within these categories.

[table not reproduced in this report]

#### Selection of Charges/Degree of Charge

(1) The prosecutor should file charges which adequately describe the nature of defendant's conduct. Other offenses may be charged only if they are necessary to ensure that the charges:

- (a) Will significantly enhance the strength of the state's case at trial; or

(b) Will result in restitution to all victims.

(2) The prosecutor should not overcharge to obtain a guilty plea. Overcharging includes:

(a) Charging a higher degree;

(b) Charging additional counts.

This standard is intended to direct prosecutors to charge those crimes which demonstrate the nature and seriousness of a defendant's criminal conduct, but to decline to charge crimes which are not necessary to such an indication. Crimes which do not merge as a matter of law, but which arise from the same course of conduct, do not all have to be charged.

#### GUIDELINES/COMMENTARY:

##### Police Investigation

A prosecuting attorney is dependent upon law enforcement agencies to conduct the necessary factual investigation which must precede the decision to prosecute. The prosecuting attorney shall ensure that a thorough factual investigation has been conducted before a decision to prosecute is made. In ordinary circumstances the investigation should include the following:

(1) The interviewing of all material witnesses, together with the obtaining of written statements whenever possible;

(2) The completion of necessary laboratory tests; and

(3) The obtaining, in accordance with constitutional requirements, of the suspect's version of the events.

If the initial investigation is incomplete, a prosecuting attorney should insist upon further investigation before a decision to prosecute is made, and specify what the investigation needs to include.

##### Exceptions

In certain situations, a prosecuting attorney may authorize filing of a criminal complaint before the investigation is complete if:

(1) Probable cause exists to believe the suspect is guilty; and

(2) The suspect presents a danger to the community or is likely to flee if not apprehended;

or

(3) The arrest of the suspect is necessary to complete the investigation of the crime.

In the event that the exception to the standard is applied, the prosecuting attorney shall obtain a commitment from the law enforcement agency involved to complete the investigation in a timely manner. If the subsequent investigation does not produce sufficient evidence to meet the normal charging standard, the complaint should be dismissed.

##### Investigation Techniques

The prosecutor should be fully advised of the investigatory techniques that were used in the case investigation including:

(1) Polygraph testing;

(2) Hypnosis;

(3) Electronic surveillance;

(4) Use of informants.

##### Pre-Filing Discussions with Defendant

Discussions with the defendant or his/her representative regarding the selection or disposition of charges may occur prior to the filing of charges, and potential agreements can be reached.

##### Pre-Filing Discussions with Victim(s)

Discussions with the victim(s) or victims' representatives regarding the selection or disposition of charges may occur before the filing of charges. The discussions may be considered by the prosecutor in charging and disposition decisions, and should be considered before reaching any agreement with the defendant regarding these decisions. [1996 c 93 § 2; 1995 c 288 § 3. Prior: 1992 c 145 § 11; 1992 c 75 § 5; 1989 c 332 § 2; 1988 c 145 § 13; 1986 c 257 § 30; 1983 c 115 § 15.]

**RCW 9.94A.450** Plea dispositions. STANDARD: (1) Except as provided in subsection (2) of this section, a defendant will normally be expected to plead guilty to the charge or charges which adequately describe the nature of his or her criminal conduct or go to trial.

(2) In certain circumstances, a plea agreement with a defendant in exchange for a plea of guilty to a charge or charges that may not fully describe the nature of his or her criminal conduct may be necessary and in the public interest. Such situations may include the following:

- (a) Evidentiary problems which make conviction on the original charges doubtful;
- (b) The defendant's willingness to cooperate in the investigation or prosecution of others whose criminal conduct is more serious or represents a greater public threat;
- (c) A request by the victim when it is not the result of pressure from the defendant;
- (d) The discovery of facts which mitigate the seriousness of the defendant's conduct;
- (e) The correction of errors in the initial charging decision;
- (f) The defendant's history with respect to criminal activity;
- (g) The nature and seriousness of the offense or offenses charged;
- (h) The probable effect on witnesses. [1983 c 115 § 16.]

**RCW 9.94A.460** Sentence recommendations. STANDARD:

The prosecutor may reach an agreement regarding sentence recommendations.

The prosecutor shall not agree to withhold relevant information from the court concerning the plea agreement. [1983 c 115 § 17.]

## **APPENDIX D: ALTERNATIVE STANDARD-RANGE SENTENCES**

- First-time Offender Waiver (FTOW). Offenders convicted of a felony that is not a violent or sex offense or a sale of certain drugs, and who have no prior felony convictions, can receive an individualized sentence under the First-time Offender Waiver. Such a sentence may include up to 90 days in jail, and up to two years of community supervision, subject to conditions such as treatment, education, holding a job, performing community service work, staying within prescribed geographical boundaries, paying restitution and other financial obligations and reporting as directed to the court and a community corrections officer.<sup>3</sup>
- Special Sex Offender Sentencing Alternative (SSOSA). Certain first-time sex offenders, not convicted of Rape 1 or 2, can receive a SSOSA sentence if the court finds that they can be treated in a community setting. The court must consider the victim's opinion whether the offender should receive this sentence. A SSOSA sentence is a standard-range sentence to jail or prison, suspended on condition that the offender receive inpatient or outpatient treatment and meet other requirements. Up to six months in jail may be required.<sup>4</sup>

## **APPENDIX E: MANDATORY STANDARD-RANGE SENTENCES**

- Aggravated First Degree Murder. Defendants convicted of this offense are sentenced either to death or to life imprisonment, based on the decision of the jury.<sup>5</sup>
- Persistent Offender ("Three Strikes And You're Out"). Certain offenders convicted of "most serious offenses,"<sup>6</sup> who have previously been convicted of "most serious offenses" on two separate occasions, are sentenced to life imprisonment.<sup>7</sup> If the "most serious offenses" are specified sex offenses, the life sentence is imposed on the second separate conviction.<sup>8</sup>

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<sup>3</sup> See RCW 9.94A.120(5).

<sup>4</sup> See RCW 9.94A.120(8).

<sup>5</sup> See chapter 10.95 RCW and RCW 9.94A.310(1).

<sup>6</sup> These offenses, also known as "strikes," are defined in RCW 9.94A.030(23).

<sup>7</sup> RCW 9.94A.030(27) and .120(4).

<sup>8</sup> RCW 9.94A.030(27) as amended by chapter 289, Laws of 1996. This "Two Strikes You're Out" provision took effect for crimes committed on and after June 6, 1996.

## **APPENDIX F: GLOSSARY OF CRIMINAL JUSTICE AND SENTENCING TERMS**

**Aggravated murder:** First degree murder where one or more specified aggravating circumstances existed (see RCW 10.95.020). A defendant convicted of aggravated first degree murder is punished by death or life imprisonment, as determined by a jury after a special sentencing proceeding (see RCW Chapter 10.95).

**Charge:** An offense that the defendant is alleged to have committed. The sentence is based on the charge of which the defendant is convicted. This may be a different charge from that originally filed by the prosecutor.

**Concurrent sentences:** Sentences for separate offenses that run at the same time. Most SRA sentences for multiple offenses are concurrent, but longer than they would be for a single offense (see RCW 9.94A.400).

**Consecutive sentences:** Sentences for separate offenses that run consecutively to one another, extending the total length of imprisonment. These are imposed for specified serious violent offenses (see RCW 9.94A.030(31) and 9.94A.400).

**Conviction:** A determination by a court or jury that a defendant has been proven, beyond a reasonable doubt, to be guilty of a particular crime. Conviction may be based on a plea of guilty, or on a verdict of a jury or judge after trial.

**Court:** A person or body of persons authorized by law to hear and decide civil or criminal cases. In Washington, the Superior Courts hear and decide felony and misdemeanor cases, District Courts hear and decide misdemeanors, and the Court of Appeals and Supreme Court hear and decide appeals from these and other trial-level courts.

**Crime:** Conduct which violates a specific state law prohibiting such conduct and designating it as a felony, gross misdemeanor or misdemeanor. Same meaning as “offense.”

**Deadly weapon:** An implement or instrument that has the capacity to inflict death and, from the manner in which it is used, may easily and readily produce death. Includes firearms and other weapons listed in RCW 9.94A.125.

**Defendant:** A person formally charged in court with having committed one or more crimes.

**Determinate sentence:** A sentence of fixed duration and/or specified conditions, determined by the court according to standards set forth in law.

**Enhancement:** A period of confinement added to a sentence because of particular circumstances of the crime. Sentences may be enhanced because the offender was armed with a



firearm or other deadly weapon, sold illegal drugs within a specified distance of a school or other protected area, or sold illegal drugs in a jail or prison.

**Exceptional sentence:** A sentence to confinement for a longer or shorter period than the standard range, or with conditions not otherwise permitted to be imposed, based on substantial and compelling reasons stated in writing by the judge. An exceptional sentence may involve a term of confinement within the standard range and conditions not otherwise authorized. Either the prosecutor or the defendant may appeal an exceptional sentence.

**Felony (Classes A, B, C):** A crime whose statutory maximum sentence exceeds one year. The statutory maximum sentence for a Class A felony is life imprisonment, for a Class B felony is ten years, for a Class C felony is five years. Certain felonies are classified according to the sentence prescribed by law, rather than having their maximum sentence determined by their classification. The statutory maximum sentence for felonies usually exceeds the standard range.

**File:** To submit a document, such as a felony Judgment and Sentence, to the clerk of a court for maintenance in a permanent record.

**Firearm:** A weapon or device from which a projectile may be fired by an explosive such as gunpowder (RCW 9.41.010).

**First Time Offender Waiver (FTOW):** An alternative standard-range sentence for certain nonviolent first-time offenders, that may include up to 90 days in jail and conditions determined by the judge (see RCW 9.94A.120(5)).

**Gross misdemeanor:** An offense whose statutory maximum sentence does not exceed one year in jail. See also “misdemeanor.” The Sentencing Reform Act does not apply to gross misdemeanors.

**Jail:** A county or city facility housing defendants awaiting trial or convicted and sentenced to not more than one year.

**Judge:** A non-partisan elected official authorized to hear and decide cases in the legal system. Superior Court judges are state officials elected at the county level for four-year terms.

**Misdemeanor:** An offense whose statutory maximum sentence does not exceed 90 days in jail. See also “gross misdemeanor.” The Sentencing Reform Act does not apply to misdemeanors.

**Most serious offense:** One of a category of felonies for which the sentence is life imprisonment after three separate convictions; a “strike” under the Persistent Offender Accountability Act (see RCW 9.94A.030(23)). Certain sex offenses result in a life sentence after the second “strike.”

**Offender score:** In calculating the standard range for a determinate sentence, the factor based on the offender’s criminal history. The offender score consists of previous or accompanying felony convictions. Certain convictions are scored at two or three points. See RCW 9.94A.360.

**Offense:** Conduct which violates a specific state law prohibiting such conduct and designating it as a felony, gross misdemeanor or misdemeanor. Same meaning as “crime.”

**Persistent offender:** An offender who has been convicted on three separate occasions of “most serious offenses” (“strikes”), or on two separate occasions of specified sex offenses. A persistent offender is sentenced to life imprisonment (see RCW 9.94A.030(27) and 9.94A.120(4)).

**Plea agreement (plea bargain):** An agreement between a prosecuting attorney and a defendant, in which the defendant agrees to plead guilty to a specified charge or charges in return for the prosecutor’s promise to drop other charges, not file other charges or make specified sentence recommendations. A plea agreement is subject to the judge’s approval, but the judge may not take part in negotiations and is not bound by the agreement.

**Prison:** A state facility housing defendants who have been convicted and sentenced to more than one year’s confinement.

**Prosecuting attorney:** A partisan elected county official responsible for filing and prosecuting criminal charges and performing other legal duties.

**Sentence:** An order of a court requiring specified punishment of an offender after conviction of one or more crimes. A sentence may include a fine, imprisonment, restitution, supervision under specified conditions and other terms. Often “sentence” is used to mean the length of permissible imprisonment.

**Sentencing Guidelines Commission:** A state agency consisting of 20 voting members appointed by the Governor and four legislators appointed by the presiding officers of the two houses of the Legislature. The Commission maintains adult and juvenile felony sentencing information, evaluates and recommends changes in sentencing and other laws involving adult and juvenile criminal justice and publishes this and other reports. See RCW 9.94A.040-060.

**Sentencing Reform Act:** The Washington statute establishing a system of determinate sentencing for felonies. The SRA (RCW Chapter 9.94A) was first enacted in 1981 and applies to felonies committed on and after July 1, 1984. It has been amended frequently since enactment.

**Serious violent offense:** One of the offenses listed in RCW 9.94A.030(31), for which the sentence is consecutive to that for any other offense for which the defendant is being sentenced at the same time.

**Seriousness level:** One of 15 levels of seriousness for felonies, listed in RCW 9.94A.320. The seriousness level, together with the offender score, determines the standard-range sentence under RCW 9.94A.310. Not the same as felony class.

**Sexual motivation:** A factor in the commission of an offense that makes it a sex offense and/or justifies an aggravated exceptional sentence. See RCW 9.94A.030(34) and RCW 9.94A.127.

**Special Sexual Offender Sentencing Alternative (SSOSA):** An alternative sentence given some sex offenders, in which the standard range is suspended, conditioned on jail time and inpatient or outpatient treatment. See RCW 9.94A.120(8).

**Standard range:** The number of months' confinement to which a judge has discretion to sentence a felony offender, in the absence of aggravating or mitigating circumstances. The standard range is determined by combining the seriousness of the offense with the offender's criminal history on the sentencing grid (see RCW 9.94A.310). A sentence within the standard range may not be appealed.

**Trial:** In criminal cases, a proceeding where a judge or jury hears evidence and determines whether the defendant is guilty or not guilty of a specified crime or crimes. The state is required to prove beyond a reasonable doubt that the defendant is guilty.

**Violent offense:** One of the offenses listed in RCW 9.94A.030(38).